

R.D. # 007-05  
Flanders, NJ

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 22**

**TOYS “R” US, INC.**

Employer

and

**CASE 22-RC-12601**

**LOCAL 348-S, UNITED FOOD & COMMERCIAL  
WORKERS UNION, AFL-CIO/CLC<sup>1</sup>**

Petitioner

**DECISION AND DIRECTION OF ELECTION**

**Introduction**

Petitioner, Local 348-S, United Food & Commercial Workers Union, AFL-CIO/CLC, filed a representation petition pursuant to Section 9(c) of the National Labor Relations Act. The parties agree that all full time and regular part-time operations, planning operations and facilities department employees should be included in the unit at the Employer’s Mount Olive Distribution Center in Flanders, New Jersey (“MODC”).<sup>2</sup> The parties further agree that temporary and agency personnel, human resources administrative assistants, office clerical employees, PRIDE analysts, professional employees, managerial employees, guards and supervisors as defined in the Act should be excluded from the unit.

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<sup>1</sup> The names of the Employer and the Petitioner appear as amended at the hearing.

<sup>2</sup> The Employer employs about 265 employees in these undisputed departments, including 236 operations employees, 2 auditing clerks, 1 operations clerk, 4 wave planning clerks, 3 schedulers, 3 facilities technicians, 2 facilities employees, 12 repack employees and 2 sorter operators.

The Employer, contrary to the Petitioner, seeks to expand the unit to include all drivers, yard switchers, fleet mechanics, dispatchers and administrative assistants employed in the MODC's Transportation Department.<sup>3</sup> The Employer asserts that the transportation employees share an overwhelming community of interest with the petitioned for unit employees such as to require their inclusion in the unit.

Based upon the following facts and analysis, I find the unit sought by Petitioner, excluding transportation department employees, is appropriate and direct an election therein.

Pursuant to the provisions of Section 3(b) of the Act, the Board has delegated its authority in this proceeding to the undersigned. Upon the entire record,<sup>4</sup> I find:

1. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.
2. The Employer is engaged in commerce within the meaning of the Act and it will effectuate the purposes of the Act to assert jurisdiction herein.<sup>5</sup>
3. Petitioner claims to represent certain employees of the Employer.<sup>6</sup>
4. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.

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<sup>3</sup> There are about 118 transportation department employees, including 93 drivers, 9 mechanics, 6 dispatchers, 8 yard switchers and 2 administrative assistants.

<sup>4</sup> Briefs filed by the Employer and the Petitioner have been considered.

<sup>5</sup> The Employer, a Delaware Corporation, is engaged in the warehousing, sale and distribution of toys and other merchandise from its Flanders, New Jersey facility, the only facility involved herein.

<sup>6</sup> The parties stipulated and I find that Petitioner is a labor organization within the meaning of the Act.

5. For the reasons described below, the following employees of the Employer constitute a unit appropriate for the purpose of collective bargaining within the meaning of Section 9(b) of the Act:

All full-time and regular part-time operations employees, operations clerks, sorter operators, repacking employees, auditing clerks, wave planning clerks, facilities technicians and facilities employees employed in the Employer's shipping, receiving, storage, processing, returned goods (RGD), wave planning, administrative/customer service (ACS) and facilities departments at its Flanders, New Jersey facility, excluding all drivers, yard switchers, dispatchers, mechanics and administrative assistants in the transportation department, temporary and agency personnel, office clerical employees, human resources administrative assistants, professional employees, PRIDE analysts, managerial employees, guards and supervisors as defined in the Act.

### **The Employer's Business**

The Employer is a retailer of juvenile toys, games, foods, clothing, furniture and other such items. It operates approximately 750 Toys-R-Us stores, 220 Babies-R-Us stores, ten distribution centers and two apparel distribution centers throughout the United States. The MODC is the distribution center for about 150 stores in New England, New York and New Jersey. It is located on a 231 acre campus with a two-floor, 1,300,000 square foot facility and a separate truck repair shop with fuel pumps. The MODC is surrounded by parking lots for employee parking and trucks.

The MODC has shipping and receiving docks on all four sides; the interior consists largely of warehouse space.<sup>7</sup> The MODC also contains separate offices and areas for human resources, ACS, wave planning, retail administrative offices, a lobby, facilities storage and dispatching. The various areas are divided by walls and doors, some of which are security

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<sup>7</sup> The shipping docks are on the west side, the receiving docks are on the south and east sides, railcar docks are on the north side and the returned goods docks are on the south-eastern corner of the facility.

coded for selective entry by specific individuals with appropriate clearance. All employees have swipe ID badges that may be programmed to access specific security doors and departments.

The MODC has approximately 11 miles of conveyor belts and a variety of sorting equipment that is used to move pallets of product and supplies around the facility and directly onto trucks. Operational employees also use various product-handling equipment to move merchandise, such as pallet jacks, electric walkie-riders, reach trucks and turret trucks. Facilities technicians maintain and repair the physical plant and the operational equipment. The MODC has a fleet of approximately 50 tractor trucks which are used to haul over 64,000 trailer loads each year to and from stores, other distribution centers, the Elizabeth, New Jersey Port Authority Marine Terminal (Port Elizabeth), rail yards and vendors. Mechanics maintain and repair the trucks.

Mechanics and facilities technicians use a computer program called DataStream to record and track services they perform and parts they replace. The Employer also has a computer based scanning and bar code label system that it uses to track products, create reports and provide directions to employees regarding the proper location and handling of products. Employees access the system using hand held laser radio terminals (LRTs) or desktop computer terminals that are stationed in various locations around the facility.

General Manager Jeff Sonnenmberg is in charge of the MODC. First Shift Operations Manager Todd Hatfield and Second Shift Operations Manager Erick Rucker lead the Receiving, Shipping, Storage and Processing departments. Planning Operations Manager Barbara Siegel leads the Wave Planning, Administrative and Customer Services (ACS) and

Returned Goods (RGD) departments. Transportation Manager Jeff Wermuth leads the Transportation Department; the Facility Manager position is currently open. Hatfield, Rucker, Siegel and Wermuth report directly to Sonnemberg.<sup>8</sup>

Generally, the Employer's business structure is as follows: the primary operations departments and RGD are responsible for the actual movement, storage, processing, loading and unloading of materials throughout the facility and on and off trucks. Storage employees pick freight from the storage racks and stage it; processing employees arrange, divide and repack the products as required for each store; shipping employees load products onto the trailers; and receiving employees unload and handle inbound products. RGD employees perform similar functions for goods returned from the stores. About 85% of the Employer's products are moved through the facility on conveyor belts, while the remaining 15% - large, heavy or awkward products - must be moved manually. The Wave Planning and ACS departments are responsible for designating, distributing and tracking the inventory and work performed by other operations departments. The Facilities Department is responsible for maintaining the physical plant and equipment that is used within the MODC. The Transportation Department is responsible for hauling materials to and from the MODC and maintaining the tractors and trailers that are used to perform that function.<sup>9</sup>

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<sup>8</sup> Sonnemberg and Wermuth testified at the hearing.

<sup>9</sup> Sonnemberg testified that transportation and facilities are "support" departments that assist or make possible the direct operations engaged in by the other departments.

## **Outbound Shipping Operation**

Sonnemberg and Wermuth testified in extensive detail regarding the outbound shipping and inbound receiving procedures.<sup>10</sup> The outbound procedure begins with the shipping schedule: Dispatcher Stacey Bauch receives information regarding the cubic feet of merchandise and supplies that each store requires from the Employer's corporate office, wave planning clerks and ACS employees. Based on that information, she creates a two week schedule of truck trips. The shipping schedule is then forwarded electronically to stores and the wave planning clerks. These clerks enter the data into the "Continuous Automatic Dynamic Replenishment" (CADR) computer system, which automatically determines the specific merchandise (e.g., strollers, baby food, etc.) that each store is to receive.

Two days in advance of a day's shipments, Bauch accesses the CADR system file to verify that freight is available for the shipments and designates a "wave" or group of stores that will receive deliveries on each shift.<sup>11</sup> Bauch sends this "daily reminder" to the stores, wave planning and to other dispatchers, who use the reminder to assign runs to drivers.<sup>12</sup>

One day in advance of deliveries, schedulers in the wave planning department use the CADR system to print a wave of scannable labels for each shift. The labels are affixed to products being shipped; they identify the volume of products, how they are to be handled and the shipping door to which they must be delivered. Wave planning operations employees

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<sup>10</sup> In my description of the outbound shipping and inbound receiving procedures, I particularly note those functions in which the disputed transportation employees are involved and interact with other petitioned for employees.

<sup>11</sup> Two waves are delivered each day, one for each shift.

<sup>12</sup> Wermuth testified that dispatchers follow no specific guidelines for assigning particular runs to drivers; the dispatchers merely attempt to assign work such that all drivers receive about an equal number of weekly hours.

then divide or “burst” the labels by operations department and distribute them accordingly, thereby providing employees with instructions regarding picking, processing and movement of goods, as well as a way to track those goods as they move through the facility.<sup>13</sup>

After each wave of labels has been produced, wave planning clerks use the CADR system to create certain reports, including “Outbound Load Assignments” (OLAs). OLAs provide yard switchers with the numbers and sizes of the trailers they must pull into each shipping door, as well as the stores designated to receive deliveries. OLAs also notify drivers of special contents in their trailers, such as bags of sand that are particularly heavy.<sup>14</sup>

Once shipping operations employees have loaded and sealed the trailers, they radio the yard switchers to remove the trailers from the dock bay doors. Other shipping operations employees enter onto the computer system a manifest that lists the cargo of each trailer and send that manifest to the stores. The manifest is also made available to dispatching.<sup>15</sup> Dispatchers use that information to create dispatch tickets which contain the drivers’ daily assignments. Drivers receive their tickets from dispatching, connect their tractors to the appropriate trailers, conduct a pre-trip inspection of the vehicle, noting any problems on a standard inspection form (DVIR) and leave the facility. The drivers drop their trailers at the stores for unloading and return with empty trailers or trailers of returned goods. During their runs, drivers remain in contact with dispatching regarding any problems encountered.

Upon the drivers’ return to the MODC at the end of their shifts, they pull into the

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<sup>13</sup> Employees obtain information from labels by scanning the bar codes using LRTs or from computer terminals.

<sup>14</sup> Sonnemberg testified that drivers must be aware of the weight of the trailers so that they may be hauled safely and in accordance with regulations.

<sup>15</sup> Shipping employees prepare a “Shipping Trailer Log” spreadsheet that contains the store, trailer, trailer seal and manifest numbers of each shipment and e-mail it to dispatching.

fueling station and a mechanic refuels the tractor. The driver and mechanic conduct a post-trip inspection of the vehicle and record on a DVIR any problems they experienced or found. If the truck requires service, mechanics perform the repairs, record them onto the Data Stream system and sign off on them on the DVIR. If a driver's shift is not over upon the completion of a run and time permits, the driver may obtain another assignment from dispatching. MODC drivers are not assigned to perform long runs that would require them to work longer than their eight or ten hour shifts.<sup>16</sup>

### **Inbound Receiving Operation**

The respective departments function much the same way on inbound operations as they do on outbound operations. The inbound receiving operation begins with faxes that are sent from Port Elizabeth and rail yards to the dispatching or receiving offices, notifying the Employer that a container of merchandise has arrived. Dispatching is also notified by the corporate office when a vendor load is available for pick up. This information is consolidated in the receiving office,<sup>17</sup> where receiving operations employees designate a date and time that the containers will be unloaded at the MODC. These unloading dates are then sent to dispatching.<sup>18</sup> Receiving operations employees also prepare a list or "pull sheet" for yard switchers. Wermuth testified that yard switchers enter the MODC and pick up this information from the receiving office each day.

Dispatchers then determine when the containers will be retrieved and by whom,

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<sup>16</sup> Such runs are subcontracted to common carriers.

<sup>17</sup> Daily, a receiving operations employee retrieves faxes received by dispatching, which forwards information regarding vendor loads to the receiving office by e-mail.

<sup>18</sup> The same employee who retrieves the Port and rail yard faxes that are sent directly to dispatching also drops off faxes that receiving has already scheduled (the unloading date/time is written directly on the fax).



mindful of the unloading schedule and storage penalties the Employer will incur if containers are left uncollected too long. Dispatchers prepare and distribute the appropriate dispatch tickets and drivers make their runs. Once drivers complete their runs and drop the containers back in the MODC yard, yard switchers pull them into the receiving dock doors in accordance with the pull sheet schedule. Receiving operations employees unload the trailer and radio the yard switchers to remove it and pull another trailer into the vacated receiving door. The products are then moved by operations employees into the warehouse for storage or sent directly to shipping to be loaded onto trailers and delivered to stores.<sup>19</sup>

Returned goods are handled by a separate department (RGD) but treated similarly to incoming inventory and supplies. Drivers that have delivered product to stores drop their trailers, pick up trailers containing returned goods, including defective returned products, return to vendor products (RTV),<sup>20</sup> unneeded supplies, cardboard bales or products that are no longer being sold, return to the MODC and drop their trailers.<sup>21</sup> Yard switchers pull the trailers into the RGD docks pursuant to a schedule created by the dispatchers. The returned goods are unloaded by RGD operations employees, who, when finished, radio the yard switchers to pull the empty trailers and return them to the outbound rotation.

Once incoming goods have been delivered to the MODC, wave planning schedulers print labels that are distributed to operations and affixed to the products. Like outbound labels, receiving labels are bar coded and contain information that allows the Employer to

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<sup>19</sup> The process of moving inbound products directly from receiving to shipping for immediate delivery, without warehousing the items, is referred to as “cross dock activity.”

<sup>20</sup> RTV are products that are recalled by the vendor or that may be returned to the vendor pursuant to an agreement regarding excess unsold merchandise.

<sup>21</sup> After drivers drop inbound shipment trailers, the drivers and mechanics go through the same pre- and post-trip inspection process as with outbound shipments.

track goods as they move through the facility and provide instructions to employees regarding their handling and storage location.

### **Transportation Department Employees**

As noted above, the Employer contends that the transportation employees share an overwhelming community of interest with operations employees that renders inappropriate any unit from which they are excluded. Transportation employees are managed and supervised separately from operations, planning operations and facilities employees. Transportation Manager Wermuth, Assistant Manager Marty Walsh and Truck Shop Department Head Gumann are responsible for only transportation employees; they do not report to the operations or planning managers. Likewise, department managers and department heads in the operations and planning departments do not report to Wermuth. Employee policies and procedures are applied at the departmental level, including disciplinary matters, although Sonnemberg must ultimately approve discharges.

The drivers, mechanics, yard switchers, and administrative assistant Piazza perform their primary functions and spend most of their time outside the MODC. Drivers report to the dispatching office to clock in and out and obtain assignments, but are out on the road most or all of their shifts. Mechanics work in the truck shop maintaining, repairing, inspecting and fueling tractor trailers. Piazza also works in the truck shop running reports from the DataStream computer system, handling documentation regarding vehicle license plates, registration, licenses and warranties and performing other general clerical functions. Yard switchers work in the parking lots moving trailers from their staging areas into and out of the docking bay doors. Yard switchers also occasionally replace drivers on over-the-road runs, and mechanics occasionally replace drivers on the road if the driver cannot complete a

run within the allowable hours under DOT regulations. Mechanics also occasionally meet drivers out on the road to make repairs.

Within the facility, transportation employees are significantly separated from other employees. Although the dispatchers work in the MODC, the dispatching office is a secure area that other employees are not authorized to enter without permission. Dispatchers use computers, telephones, calculators and other equipment located within the dispatching office. Earl Pavlik, Transportation Department administrative assistant, also works in the MODC; however, he is located upstairs, in Wermuth's office, maintaining and processing vendor bills and payments. In addition to billing, Pavlik maintains records and talks to drivers regarding their compliance with DOT requirements (medical examinations, drug tests, etc.).<sup>22</sup> Pavlik talks with drivers by phone or in the dispatching office.

Transportation employees generally enter the MODC by a drivers' entrance through the dispatching office and use their own time clocks in the dispatching office and truck shop. Other employees enter the facility through a separate associates' entrance and use time clocks in their respective departments.<sup>23</sup> The dispatching office and the truck shop also have

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<sup>22</sup> The Employer contends that the administrative assistants are plant clericals, typically included by the Board in warehouse and/or operations units, because they perform duties that are related to and integrated with the production process, rather than general office operations. *Ives Business Forms, Inc.*, 263 NLRB 286 (1982). Although an argument may be made that Piazza and Pevlik are plant clericals for the Transportation Department, I find that transportation employees are not included in the unit. I am also mindful that certain billing and clerical functions performed by Piazza and Pevlik are typical office clerical duties. *Dunham's Athleisure Corp.*, 311 NLRB 175 (1993). Accordingly, based on the facts and the record as a whole, I find that the transportation administrative assistants are not plant clericals vis-à-vis unit employees and shall not include them in the unit.

<sup>23</sup> Transportation employees may enter through the same "associates' entrance" used by the petitioned for employees in order to access restrooms, the cafeteria, human resources and the like.

separate lockers and rest rooms. Employees in the truck shop use its electric room, with a stove and small refrigerator, as a make-shift break area.

The record revealed no evidence of temporary interchange between transportation employees and employees in the petitioned for unit. There was also little evidence of permanent interchange: Wermuth testified that, in the past seven years, five employees who worked in the MODC obtained commercial drivers licenses (CDL) and were hired as drivers.

The evidence also revealed little commonality of licensing, equipment or job functions between transportation and operations department employees. All drivers, mechanics and yard switchers must have CDLs; two dispatchers have CDLs as well. As described above, the dispatchers, the mechanics and Piazza use some of the same computer systems as the petitioned for employees. Otherwise, the functions of Transportation Department employees revolve around the operation and maintenance of trucks while the functions of operations employees primarily revolve around the movement of goods inside the facility, using product-handling equipment. As detailed above, there exists a significant degree of functional integration, contact and communication among dispatchers, yard workers and the petitioned for employees, while the drivers, mechanics and the two administrative assistants have little such functional integration, contact and communication with these other groups.

The Employer maintains standard employee benefits, personnel policies, work rules, number and duration of breaks, new hire orientation and parking lots for all the employees. All the employees at issue are paid on an hourly basis, plus overtime after 40 hours, and the

Human Resources Department serves and has authority over all hourly employees. Employees from all departments attend monthly “GM Forum” meetings on a rotating basis.

However, the record also revealed significant distinctions in hours and pay between transportation and other employees. Thus, the petitioned for employees typically work standard shifts from 6:30 a.m. to 3:30 p.m. or 3:30 p.m. to Midnight, Monday through Friday.<sup>24</sup> Some work a Saturday shift, 7:00 a.m. to 3:30 p.m., and a Sunday shift, Noon to 8:30 p.m. The starting and quitting times of drivers, dispatchers and mechanics are less standardized and are scheduled on a more staggered basis. Unlike other employees, drivers spend part of the year on a four day schedule of ten hour shifts.<sup>25</sup> Regarding wages, most transportation employees earn from about \$16 to \$24 per hour and most petitioned for employees (i.e., operations employees) earn from about \$10 to \$17 per hour.

### **Analysis**

It is well established that a certifiable unit need only be an appropriate unit, not the most appropriate unit. *Morand Bros. Beverage*, 91 NLRB 409 (1950) enfd. 190 F.2d 576 (7<sup>th</sup> Cir. 1951); *Omni International Hotel of Detroit*, 283 NLRB 475 (1987); *P.J. Dick Contracting*, 290 NLRB 150 (1988); *Dezcon, Inc.*, 295 NLRB 109 (1989). The Board's task, therefore, is to determine whether the petitioned for unit is an appropriate unit, even though it may not be the only appropriate unit or the ultimate unit. In making unit determinations, the Board first looks to the unit sought by the petitioner. If it is appropriate, the inquiry ends and the Board does not evaluate any competing unit contentions. If, however, the unit is

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<sup>24</sup> Two facilities technicians also work a third shift during the week from 9:30 pm to 6:00 am.

<sup>25</sup> Drivers generally work four ten hour shifts per week from about January to April and five eight hour shifts for the remainder of the year.

inappropriate, the Board will scrutinize the employer's proposal. *Dezcon, Inc.*, above at 111; *Overnite Transportation*, 325 NLRB 612 (1998). In assessing the appropriateness of any proposed unit, the Board considers community of interest factors such as employee skills and functions, degree of functional integration, interchangeability and contact among employees and whether the employees have common supervision, work sites and other terms and conditions of employment.

Based on the above and the record as a whole, I find that the drivers, dispatchers, mechanics, yard switchers and administrative assistants in the Transportation Department do not share such an overwhelming community of interest with the petitioned for employees as to require their inclusion in the unit. Although the Board does not apply a fixed rule for the unit placement of drivers and mechanics, the Board has customarily excluded them when the petitioner has sought a separate unit of warehouse or production and maintenance employees. *Overnite Transportation Company*, 331 NLRB 662 (2000) (warehouse-type unit may include unskilled shipping and receiving employees, but exclude drivers and mechanics) citing *Naturn Corp.*, 235 NLRB 1139 (1978); *Cal-Maine Farms, Inc.*, 249 NLRB 944 (1980).

As noted above, Transportation Department employees, especially drivers, mechanics and the two administrative assistants, share little in the nature of functional integration, work location, contact, job duties, employee interchange, management, supervision, time clocks and hours and wages with the petitioned for employees. Accordingly, I find that the unit sought need not be expanded to include drivers, mechanics and administrative assistants in order to be appropriate and shall not include them.

The record discloses that dispatchers and yard switchers have considerable association with the petitioned for employees because they, unlike other transportation employees, share a certain degree of functional integration, contact and communication with operations employees. In this regard, I recognize that a unit that includes dispatchers, yard switchers and all operations employees would likely be appropriate if petitioned for. On the other hand, the dispatchers and yard switchers could just as appropriately be included in a departmental unit with drivers, mechanics and administrative assistants, had a union sought it.<sup>26</sup> The Board has held that when considering the unit placement of disputed classifications, it will apply basic policies, i.e., 1) the Petitioner's desire as to the unit is always a relevant consideration and 2) it is not essential that a unit be the most appropriate unit. *Marks Oxygen Co.*, 147 NLRB 228 (1964); *Mc-Mor-Han Trucking Co.*, 166 NLRB 700 (1967); *Peacemaker Mobile Homes, a Division of Lonergan Corp.*, 194 NLRB 742 (1971); *Overnite Transportation Co.*, above; *Home Depot USA, Inc.*, 331 NLRB 1289 (2000). In this case, noting that the Petitioner seeks to exclude Transportation Department employees and further noting that the dispatchers and yard switchers share substantial overall commonality of management, supervision, pay, contact, employee interchange, equipment, licensing, job duties, skills and functional integration with other transportation employees, I find that it is appropriate to exclude them.<sup>27</sup> Under these circumstances, I find that the Employer has not established the existence of such a degree of community of interests as to require the

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<sup>26</sup> In *Overnite Transportation Co.*, supra, the Board found appropriate a unit of dockworkers, facilities maintenance employees, janitors and yard jockeys. However, unlike the instant case, the yard jockeys were sought to be represented by the petitioning union.

<sup>27</sup> As such, having already determined that other transportation employees may be excluded, I also recognize that my decision regarding dispatchers and yard switchers will not likely result in additional fragmentation of the workforce into multiple units, should the transportation employees be organized.

inclusion of Transportation Department employees, in whole or in part, in the same unit with those employees sought by Petitioner.

### **DIRECTION OF ELECTION**

An election by secret ballot shall be conducted by the undersigned among the employees in the unit found appropriate at the time and place set forth in the notices of election to be issued subsequently subject to the Board's Rules and Regulations. Eligible to vote in the election are those in the unit who were employed during the payroll period ending immediately before the date of this Decision, including employees who did not work during that period because they were ill, on vacation or temporarily laid off. Employees engaged in an economic strike who have retained their status as strikers and have not been permanently replaced are also eligible to vote. In addition, in an economic strike that commenced less than 12 months before the election date, employees engaged in such strike that have retained their status as strikers but who have been permanently replaced, as well as their replacements, are eligible to vote. Unit employees in the military services of the United States may vote if they appear in person at the polls. Ineligible to vote are (1) employees who have quit or been discharged for cause since the designated payroll period; (2) striking employees who have been discharged for cause since the strike began and who have not been rehired or reinstated before the election date; and (3) employees who are engaged in an economic strike that began more than 12 months before the election date and who have been permanently replaced. Those eligible shall vote whether or not they desire to be represented for collective bargaining purposes by **Local 348-S, United Food & Commercial Workers Union, AFL-CIO/CLC**.



## LIST OF VOTERS

In order to ensure that all eligible voters may have the opportunity to be informed of the issues in the exercise of their statutory right to vote, all parties in the election should have access to a list of voters and their addresses which may be used to communicate with them. *Excelsior Underwear, Inc.*, 156 NLRB 1236 (1966); *NLRB v. Wyman-Gordon Company*, 394 U.S. 759 (1969). Accordingly, it is hereby directed that within seven (7) days of the date of this Decision, two (2) copies of an election eligibility list containing the full names and addresses of all the eligible voters shall be filed by the Employer with undersigned, who shall make the list available to all parties to the election. *North Macon Health Care Facility*, 315 NLRB 359 (1994). In order to be timely filed, such list must be received in the NLRB Region 22, 20 Washington Place, 5<sup>th</sup> Floor, Newark, New Jersey 07102, on or before **May 31, 2005**. No extension of time to file this list shall be granted except in extraordinary circumstances, nor shall the filing of a request for review operate to stay the requirement here imposed.

## RIGHT TO REQUEST REVIEW

Under the provision of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the Executive Secretary, 1099 14th Street, N.W., Washington, DC 20570-0001. This request must be received by the Board in Washington by **June 6, 2005**.

Signed at Newark, New Jersey this 23<sup>rd</sup> day of May 2005.

/s/Gary T. Kendellen

Gary T. Kendellen, Director, Region 22  
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